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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 August 1996, at 3 p.m.

Chairman: Mr. EIDE

later: Mr. ALI KHAN

later: Mr. EIDE

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GE.96-13598 (E)

The meeting was called to order at 3.15 p.m.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (E/CN.4/Sub.2/1996/10, 11, 12 and Corr.1, 13-15, 31 and 33; E/CN.4/Sub.2/1996/NGO/9 and 10; E/CN.4/Sub.2/1995/10, 11 and 13; CHR/Dec./1996/104) (continued)

1. Mr. BENGOA, Special Rapporteur on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution, introducing his provisional report (E/CN.4/Sub.2/1996/14) said that the poverty and increasing social inequality that accompanied world economic growth constituted one of the main concerns of the international community. For that reason, study and monitoring of the economy, at both the international and national levels, from the human rights angle and in particular from the standpoint of economic, social and cultural rights was acquiring greater importance. The purpose of preparing a second report on income distribution and its consequences for the denial or realization of human rights was to treat economics from an overall and integral humanistic perspective in keeping with the instruments that had been internationally accepted by States. The debate on the subject had intensified in recent years. The Vienna World Conference on Human Rights, the World Summit for Social Development, the Fourth World Conference on Women held in Beijing and the recent World Habitat Conference held in Istanbul, as well as the forthcoming Food Conference to be held in Rome, constituted important landmarks in enhancing international awareness of the social matters concerned and in particular of the inequalities afflicting the world. The "globalization" of the economy and of communications was being accompanied by a "globalization" of social issues, of the need to abolish discrimination and to use the economy and resources of mankind for the benefit of the majority.

2. Mr. Eide's first report (E/CN.4/Sub.2/1994/21) and his own first report (E/CN.4/Sub.2/1995/14) had dealt with conceptual, theoretical and political matters connected with income distribution and its relationship with human rights. It therefore seemed necessary to present in the second report empirical data that would clearly show the scope of the issue at both international and national levels through the development of appropriate indicators. The data submitted had been assembled from the official statistical sources of the United Nations system, with the cooperation of the Centre for Human Rights and of the Social Studies Centre at Santiago, Chile. Much information had also been received from other organs of the United Nations, individual Governments and non-governmental organizations (NGOs). The submission of further information for inclusion in next year's report would be appreciated.

3. He described the structure of the report, as indicated in paragraph 2, drawing particular attention to the fact that the international distribution of educational resources was far worse than the distribution of economic income and pointing out that in a world in which knowledge was becoming even more important than capital and other productive factors, such an unequal distribution of cultural assets suggested that, in future generations, income distribution might be even worse than at present unless much more drastic

measures were undertaken. The figures were alarming. In many instances expenditure on arms was increasing more than expenditure on education and health.

4. The growing gap between rich and poor countries was illustrated in tables 3 and 4. Particularly important was paragraph 18, which dealt with the need to combine "international cooperation", generally of a humanitarian nature, with the "real economy". All too often international cooperation represented the friendly face of an unfriendly activity within the "real economy". The way in which income was distributed within a country was generally held to be a good indicator of its social structure. Obviously, a society in which the difference between the richest and the poorest segments was small was a fairer society than one in which the difference was very great.

5. Income distribution was independent of the level of wealth of a given society. It merely showed how resources, whether great or small, were distributed. Neither did it indicate whether the product of the society concerned was growing or not, although that was undoubtedly a decisive element for achieving the full realization of economic, social and cultural rights.

6. In very poor and in very undeveloped societies income distribution was equitable. However, as societies became more complex, the relative ownership of wealth was transformed. The existence of inequalities was not an exclusive attribute of modern industrial societies, although the present time was the one in which such inequalities had been expressed with greatest force. Countries which today were termed "developed" had experienced periods of growth in which social inequality had been extreme and in which capital accumulation had been based on exploitation, especially of colonies. In all developed countries, however, those periods had given way to subsequent periods marked by a striving for greater equity. Countries which had possessed great wealth and which had not attempted to distribute it more equitably had been unable to maintain themselves and had inevitably seen their wealth decline. In contrast, countries without great wealth which had concentrated primarily on achieving equity had soon achieved growth as well. In fact, the conflictual relationship between growth and income distribution had been at the centre of twentieth-century European history in both its capitalist and "socialist" manifestations.

7. Faced with the current economic crisis, some developed countries were seeking to rebalance their economies by breaking up the welfare State, maintaining that income distribution must be left exclusively to the play of market forces. Neo-conservative political sectors were discarding the assumption that an integrated society without great social differences and enjoying economic growth based on the productivity of capital and labour and on technological progress rather than on the exploitation of labour was possible. In some developed countries income distribution had begun to become less equitable. At present, however, it was not possible for developed countries to initiate a period of capital accumulation using the same mechanisms, such as those used in the colonies that had been employed by developed countries in the nineteenth century. On the contrary, as empirical evidence showed, the key to economic development lay in arriving at a harmonious and balanced understanding of growth and distribution.

8. Since there was no optimum income distribution as such, the term "frontiers" had been used in the report to delimit the spaces in which the various alternatives moved. The economic and social structures determining how income was distributed stemmed from the political will of States, the economic policy they applied and the measures adopted by Governments, and they often reflected the relative strength of workers and other sectors of society. The indicator used in the report was very simple, being a ratio in which the income of the richest 20 per cent of the population was divided by that of the poorest 20 per cent. That meant that in the first country mentioned, Hungary, the richest quintile or group had an income 3.2 times that of the poorest. The data had been obtained from official sources, but it was very important that Governments and NGOs should help to check it so that a second, corrected version of the report could be published.

9. The 69 countries studied had been divided into three groups characterized by "widespread poverty", "average income", including most developing countries, and "high income". Possession by the richest population quintile of less than 40 per cent of income in countries having average and high growth meant that the countries concerned had explicit redistributive policies designed to secure generalized levels of social equity. Such a figure represented the first equity frontier. Possession by the top quintile of 60 per cent of income entailed that the economy was highly concentrated and the 60 per cent figure formed the second equity frontier. Possession by the top quintile of more than 60 per cent of total income meant that a third equity frontier was crossed into what Mr. Eide, in his 1994 report, had described as an area of intolerable income distribution. Possession by the poorest quintile of less than 5 per cent of total income entailed that situations of extreme poverty prevailed among part of the population. The emergence of new pockets of poverty in developed countries such as the United Kingdom and the United States of America in the 1980s had coincided with the fall of the share of total income accounted for by the poorest quintile to 4.6 and 4.7 respectively. The 3.3 per cent accounted for by the bottom quintile in Chile and South Africa in the 1990s entailed that in each of those countries an extremely poor population group existed, despite the economic growth achieved. The frontier of extreme poverty could be situated around that figure. The ranking of countries by income distribution pattern in table 9 was of interest in relative terms but it confused two phenomena: poor countries with good and bad income distribution and rich or averagely developed countries and their internal wealth distribution. It had therefore been necessary to produce a graph with income distribution along one axis and per capita income along the other. The space on the graph could be separated into four parts or frontiers. In the upper left-hand space were the poor countries, in the upper right-hand space the developed countries, and in the lower left-hand space the underdeveloped countries. No country was to be found in the lower right-hand space. The situation of the countries in the upper left-hand space was described as being on the "frontier of widespread poverty". As the eye moved down the graph, on the left-hand side, it came across the better-known underdeveloped countries in which social differences became increasingly marked. The lower the level on the graph, the worse the distribution of income became.

10. The main point demonstrated by the graph was that there were no countries that had achieved a high level of development or an averagely high level of

per capita income and at the same time had a poor income distribution. The lower right-hand sector of the graph was empty and was the empirical demonstration that no development had taken place without an equitable distribution of income. The developed countries faced the danger of falling into that empty space. For some decades certain developed countries had begun to descend in the graph toward the frontiers of poverty. It was interesting to note that countries which had a high level of economic development, mainly in Asia, and which were currently regarded as models of economic success were struggling to move up in the upper right-hand space by improving their income distribution. It could therefore be affirmed that in an enormous number of cases there was a close relation between economic growth and income distribution. No country had developed unless it had implemented simultaneous policies of growth and income distribution.

11. The analysis could be extended much further by placing equity "frontiers" in the tables and graphs presented. It was definitely possible to determine and give operational substance to the concepts of "equity" and "social justice" without any need to use criteria derived from purely moral categories. Such an effort was necessary in order to integrate a human rights perspective with the perspective of economics and the social sciences, which generally travelled along totally different paths.

12. Income distribution was closely related to poverty in so far as it indicated the real possibilities that a given sector of society had of acceding to goods, services and opportunities. In a society in which income distribution was not too heavily concentrated, all strata would, in one form or another, enjoy similar opportunities. In a society subject to very marked inequalities, the opportunities open to one sector were quite different from those open to another, with the result that the capacity to eradicate the poverty of the poorest sector was reduced or rendered illusory. Without significant variations in income distribution, there was no possibility whatsoever, in the medium and long term, of eradicating poverty. Moreover, empirical experience demonstrated that falls in equitable income distribution were accompanied by increases in poverty. In developed countries, increases in insecurity, violence and drug-addiction were well-known common manifestations. Income distribution was also an important indicator of social integration. At certain levels of distribution no social integration was possible, and empirical experience showed that in such cases sooner or later resort had to be had to highly repressive regimes in order to sustain by force existing social inequalities.

13. In conclusion, he read out his conclusions as reflected in paragraphs 34 to 39 and the work plan for the next report as reflected in paragraphs 40 to 42.

14. Mr. Ali Khan took the Chair.

15. Mr. GUISSÉ, Special Rapporteur on the question of the impunity of perpetrators of human rights violations, introducing his second interim report (E/CN.4/Sub.2/1996/15), began by lamenting the relatively scant interest shown by members of the Sub-Commission and by observers in agenda item 8 as compared with agenda item 6. The report before the Sub-Commission was to have been his final report, but after he had completed it, NGOs and the

Centre for Human Rights had sent him further material of such great importance that he would have to request the Sub-Commission to extend his mandate until 1997. The fact that economic, social and cultural rights were dealt with in a separate report from civil and political rights did not mean that there was a division between the two categories, since all human rights were interdependent and ought to be respected in all countries.

16. The legal instruments setting forth the foundations of economic, social and cultural rights were listed in the introduction to his report, which comprised three parts concerned with mechanisms of violations of economic, social and cultural rights, with consequences of certain practices and procedures for economic, social and cultural rights and for communal rights, and with the campaign against impunity for violations of economic, social and cultural rights. The mechanisms of violations could be national or international, historical or contemporary. The historical mechanisms included slavery, colonization, apartheid and the cultural looting of the third world, for which no immediate reparation could be made but which could constitute the basis for a future legal claim for compensation. In dealing with slavery, he had not limited himself to Africa but had also considered the indigenous populations of America. The exploitation practised under colonization had often been even harsher than slavery, while apartheid had been a method whereby a white minority had exploited and humiliated a black minority for almost 100 years. A trip through the museums of Western countries would suffice to prove the enormous extent to which the cultural assets of the third world had been looted.

17. The present practices and procedures which were sources of violations of economic, cultural and economic rights included debt, which increased in proportion as sums were repaid, structural adjustment policies, which were the result of the debt and which had led to authentic hecatombs in the countries where they had been applied, embargoes, which had had disastrous consequences for the populations of countries like Iraq and Cuba, and corruption, which was the most serious gangrene affecting all modern societies, both developed and developing. Yet other practices prevented persons from enjoying internationally recognized economic, social and cultural rights in the absence of a proper implementation of the rights to development, to work, to health, to adequate food, to adequate housing and to education. In addition, the rights of vulnerable groups were not being implemented.

18. The most important part of his report related to the campaign against impunity for violations of economic, social and cultural rights. Measures had to be taken to prevent violations of those rights, and when they were violated measures had to be taken to prevent impunity. In the latter connection he supported the views put forward by Mr. van Boven in a previous study (E/CN.4/Sub.2/1993/8) on the right to restitution, compensation and rehabilitation, for the determination of which it was necessary to ascertain who was responsible, who was a victim, and possible penalties, which included restitution, substitution and rehabilitation. He read out the suggestions and recommendations to that effect to be found in paragraphs 142 and 143 of the report.

19. Mr. ZHONG Shukong said that 10 years after the General Assembly's adoption of the historic Declaration on the Right to Development the time had

come to take stock of the situation relating to the realization of that right worldwide. In that connection it should be borne in mind that the right to development was an inalienable human right by virtue of which every human person and all peoples were entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, and that development was a comprehensive economic, social, cultural and political process aimed at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation and involved a fair distribution of benefits resulting therefrom. It was doubtful whether any country could claim that it had achieved that aim.

20. States had the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development, as well as the right and duty to formulate appropriate national development policies aimed at the constant improvement of the well-being of the entire population and all individuals. The international requirements for development included full respect for the principles of international law concerning friendly relations and cooperation, a new international economic order, and elimination of the massive and flagrant violations of the human rights of peoples resulting from all forms of racism and social discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity. It was clear that those requirements had not yet been met.

21. While applicable to all member States and all peoples, the Declaration called for sustained action to promote more rapid and comprehensive development of developing countries. Its proclamation of the right to development as an inalienable human right had been acclaimed as representing the third generation of human rights: righting the wrongs of colonialism and promoting the well-being of all peoples the world over. For the facts had repeatedly shown that, without realization of the right to development for the 78 per cent of the world's population for which the developing countries accounted, poverty, backwardness and hunger could not be eliminated, the rights to life, housing, employment, education and health could not be realized, and political independence and sovereignty could not be safeguarded, in a world where the weak were the targets of bullying and oppression by the powerful. Faced with that historical residue of poverty and backwardness, all the developing countries must make sustained efforts at socio-economic development. Sadly, however, those efforts had been hampered by manifestations of the unjust and inequitable international economic order.

22. Taking stock of the situation, he said that, globally speaking, the right to development was far from being realized. In the first place, the gap between the North and the South had been widening, with the developed countries, representing less than 20 per cent of the world's population, accounting for over 70 per cent of world gross domestic product (GDP) and world trade volume; while the developing countries accounted for less than 25 per cent. That yawning gap was further widening. Secondly, the developing countries' external debt burden was growing heavier. Debt and debt-servicing obligations accounted for 70 per cent of Africa's total GDP and 250 per cent of its total export earnings. Thirdly, the population living

in poverty had grown to 1.5 billion in 1995, over 90 per cent of them in the developing countries. Fourthly, those countries were denied access to markets, and were even subjected to unilateral sanctions or threats of sanctions by certain Powers. Fifthly, they had been the targets of prejudiced attacks regarding human rights issues. The cold war had ended, but politicization of those issues continued unabated, poisoning the atmosphere of human rights forums. Small wonder that the press of the third world claimed that, having been victims of colonialist aggression and plunder for more than a century, the developing countries were now victims of power politics and of oppression by certain Powers, and that it was high time that those Powers looked at themselves in the mirror.

23. Indeed, the performance of many developed countries in promotion of the right to development could not be said to be good. Most had done little to remedy the environmental damage they had inflicted on the former colonies and semi-colonies. Ever since the Industrial Revolution, they had plundered the natural resources of colonies and used them as dumping grounds for wastes and pollutants. Fewer than 20 per cent of the world's population were responsible for more than 70 per cent of emissions of greenhouse gases. Per capita consumption of energy, iron and steel was 6 to 10 times higher in the developed than in the developing countries. Yet most developed countries still refused to correct their unsustainable patterns of production and consumption.

24. With a few commendable exceptions (Denmark, Norway, Finland, Sweden and the Netherlands), the developed countries had not honoured their international obligation to provide 0.7 per cent of gross national product (GNP) as Official Development Assistance (ODA). Indeed, in 1995 ODA had fallen to a record low of 0.29 per cent of developed countries' GNP, despite the commitment they had made at the 1992 United Nations Conference on Environment and Development to reach the accepted target of 0.7 per cent of GNP as soon as possible.

25. Nor, in most cases, had they overcome their gross social injustices, or realized the fair distribution of benefits resulting from economic growth called for in the Declaration. Yet they continued to attack developing countries groundlessly for their alleged social injustices.

26. Many developed countries had glaring records of human rights abuses against minorities, women and migrant workers. The most flagrant example was that of the 72,864 cases of abuses of Mexican migrant workers in the United States of America in 1995 alone.

27. Many developed countries had been selfishly dumping their harmful waste in developing countries. The world's largest producer of refuse was also its largest exporter, dumping nearly 10 million tonnes of harmful refuse abroad in 1995. Such conduct was environmentally and morally untenable.

28. With a few exceptions, the developed countries had intensified their efforts to politicize the human rights issue. Such an approach could only discredit them in the eyes of the masses of people the world over; such an approach could only damage the credibility of United Nations human rights forums; such an approach went against the tide of history, and was ultimately doomed to failure.

29. Cooperation, not confrontation, was needed. The Declaration stressed that effective international cooperation was essential in realizing the right to development, an affirmation reiterated in the 1993 Vienna Declaration. The international community should therefore ensure that all rights, including the right to development, were implemented, rather than devoting time and energy to the so-called civil and political rights of certain individuals, or even of separatists shielded by forces abroad. The Sub-Commission should act according to the letter and spirit of the Declaration on the Right to Development and the Vienna Declaration, promoting international cooperation to achieve realization of the right to development, the basis for all other economic and social rights.

30. Turning to the question of relevant principles for international cooperation, he recalled that at the previous session Mr. Eide had concurred with his view that no States should arrogate to themselves the role of judge or jury over other countries with regard to human rights issues, and had suggested setting up institutions and mechanisms to monitor the performance of all States in the whole field of human rights. He fully endorsed Mr. Eide's emphasis on the whole field of human rights, whether civil, political, economic, social or cultural. Meanwhile, rather than setting up new bodies, the existing United Nations institutions and mechanisms could be utilized to the full in that monitoring process. In the light of his earlier comments, he believed that the Sub-Commission should place emphasis on promoting and monitoring international cooperation. Moreover, it could and should propose some basic principles to promote that cooperation. Those principles should include, first: reaffirmation that States had the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development, and the duty to cooperate in ensuring development and eliminating obstacles thereto (art. 3.3 of the Declaration); second, promotion of all-round socio-economic development of all countries, in particular the developing countries; third, respect for each country's specific conditions and its sovereign decision to choose its own road of development; fourth, adherence to the principles of equality and mutual benefit - cooperation could be lasting only when it was based on those principles; fifth, assumption of greater responsibilities by developed countries in promoting the common prosperity of humankind: developed countries should immediately honour their commitment to provide 0.7 per cent of their GNP as ODA to developing countries by the year 2000, as well as their other relevant international commitments. Such an act would also be to their own economic, political and moral advantage.

31. The Sub-Commission should continue consideration of realization of the right to development as a sub-item under its agenda item 8, so as to enable its members to provide the Commission with input for its promotion of the realization of the right to development in the context of the United Nations Decade for Poverty Eradication. Realization of the right to development was the key to realization of all other economic, social and cultural rights.

32. Mr. Eide took the Chair.

33. Mr. KHALIFA said he regretted not having had sufficient time to read the final report of Mr. Despouy on human rights and extreme poverty (E/CN.4/Sub.2/1996/13). He would rectify that oversight at the earliest opportunity. Meanwhile, he had no need to read the report in order to be sure of its high quality.

34. He had received Mr. Guissé's second interim report on impunity of perpetrators of human rights violations (E/CN.4/Sub.2/1996/15) only the previous day, and had thus not had time to savour to the full the many important issues it dealt with. In his view, it would have been more appropriate to entitle the report "Respect for economic, social and cultural rights"; for, while impunity was an appropriate concept in the context of civil and political rights, it was somewhat far-fetched in the context of economic and social rights, which did not place the individual vis-à-vis the State. It was well known that the realization of economic, social and cultural rights was dependent on the means available to the State: thus, for example, the Constitution of India made those rights dependent on the funds available and the economic conditions prevailing. However, even if the notion of impunity appeared somewhat exaggerated in the context of economic and social rights, Mr. Guissé had now refocused his study to a more acceptable angle. He looked forward to the final report and an opportunity to discuss Mr. Guissé's valuable work more fully.

35. Mr. Bengoa's provisional report on the relationship between the enjoyment of human rights and income distribution (E/CN.4/Sub.2/1996/14) offered a unique example of conscientious and scholarly work put to the service of a noble cause. Time did not permit him to point to all the deep insights contained in the report: it must suffice to single out paragraphs 20 and 21. It was common knowledge that income disparities existed in poor countries; but the Special Rapporteur had demonstrated that, in the industrialized countries too, income concentration had grown. The income share of the less privileged and poor in those countries was becoming smaller and smaller. The most recent data in the report referred to 1993. He hoped that the Special Rapporteur's next report would provide data for 1994 and 1995, to enable members better to assess the impact of globalization on income distribution; for he feared that that impact could be devastating in industrialized and developing countries alike.

36. His own reading of the current economic situation was as follows. It was well known that an extreme free enterprise ideology had now become the United States of America's main export commodity. Its basic philosophy rested on the priority of the individual, who assumed the risk and should therefore make the decisions that discharged his or her prime responsibility to the corporation and realized profits for its shareholders. There was no doubt that, under private enterprise, production and productivity increased. But affluence was poorly distributed. Jobs were lost through downsizing, and as a result of new technologies a smaller workforce was needed. Millions of jobs around the world were being wiped out as the skilled of today became the unskilled of tomorrow, and thus expendable. The result was a sea of people with no stake in the future.

37. Furthermore, globalization created mammoth entities, setting the scene for the outbreak of a "Star War" between strong national economies and the

economies of transnational corporations (TNCs) with no national loyalties, with serious implications for the world economy. He could find no mention of that scenario in the report on the activities of TNCs (E/CN.4/Sub.2/1996/12). The issue merited further research by economic experts, the results of which should be reflected in future reports of the Sub-Commission on the topic.

38. He himself did not subscribe to the conspiracy theory that denounced globalization as a fiendish plot by the "haves" to further impoverish the "have-nots". The promises it brought of more open markets and eventual prosperity for all remained to be fulfilled. There was no denying, however, that globalization was such a forceful and pervasive trend that "haves" and "have-nots" alike had no choice but to climb onto the bandwagon. Humankind seemed doomed to gravitate endlessly between a society of opportunity and a society of guarantees, both of which had insuperable drawbacks.

39. Globalization had accentuated the pains of the transitional economies, in which it had soon become clear that free-market policies needed to be softened by a cushion of concern for the community at large. While a small middle class would benefit from those policies, the poorest 50 per cent of society stood to gain nothing. How could the social bonds that cemented society be maintained, if community interests were given lower priority than the pursuit of profit? What was lacking was any link between economic achievement and prosperity for all. A competitive economy was of no value if it did not lead to a better society.

40. It was vitally important to avoid social unrest resulting from increasing inequality and the marginalization of social forces. Even Western capitalist societies had begun to face the spectre of such social unrest, despite their tradition of providing welfare programmes and social safety nets to soften the harsh effects of free enterprise. Those societies were rushing headlong towards monetary union, while facing high unemployment, worsening economic conditions and falling growth rates. At the same time, attempts to cut social security programmes were fiercely resisted, as could be seen from the recent wave of strikes in France, symptomatic of the wider economic and moral malaise threatening most industrial societies. Governments could no longer safely impose drastic measures without vast social implications, as could be seen from recent events in Australia and Jordan.

41. It was perhaps not far-fetched to see the kidnapping and sexual abuse of children as part and parcel of that phenomenon. That abominable commerce had long been familiar in poor countries; yet, in affluent countries such as Belgium, where profit had now become deified, any investment, even in children's bodies, was seen as permissible, and any means was apparently justifiable where money was the end. Could it be that the world was in need of a heart transplant?

42. The CHAIRMAN thanked Mr. Khalifa for expressing many sentiments that he himself would have voiced, had he not been prevented from so doing in his capacity as Chairman.

43. Mr. WEISSBRODT said that the reports by Mr. Bengoa (E/CN.4/Sub.2/1996/14), by Mr. Despouy (E/CN.4/Sub.2/1996/13) and by Mr. Guissé (E/CN.4/Sub.2/1996/15) all focused on the problem of increasing

economic disparities between and among developing and industrialized countries. It was not surprising that, as a member from the United States of America, he recognized the significance of addressing economic disparity; the United States tradition in that regard dated back to President F.D. Roosevelt's "Four Freedoms" speech in the 1940s, one of those freedoms having been freedom from want. President Roosevelt had also proposed an Economic Bill of Rights which had contained many of the rights found in the International Covenant on Economic, Social and Cultural Rights and in the Universal Declaration of Human Rights.

44. He agreed with Mr. Bengoa that the poverty and growing social inequality that accompanied world economic growth constituted one of the many concerns of the international community. In view of his agreement with many of the findings of the three Special Rapporteurs, his comments would be restricted to specific areas which should be considered to continue where those reports had left off.

45. All studies of poverty and economic disparity needed to disaggregate statistics by gender, age, and racial or minority status, for poverty had differing impacts on those various groups. For example, of the 1.5 billion desperately poor people throughout the world, the overwhelming majority were women, or children or elderly people normally dependent on women. More work needed to be done on the specific causes and implications of poverty for such vulnerable groups. The "feminization of poverty" was a far more complex issue than merely recognizing that women were its major victims. The reports by Mr. Despouy and Mr. Guissé discussed a range of human rights that might be undermined by poverty, but further consideration needed to be given to aspects of those rights relating to women and children. For example, responsibility for adequate housing for poor families normally fell on the shoulders of women. Yet insecure housing, arbitrary evictions and remote locations directly affected women's health and employment prospects. In addition, while education was one of the most effective ways of combating poverty, poverty itself had a direct impact on the education available. Women and children living in poverty were compelled to work outside the home to maintain a subsistence living rather than attending school. The resulting high illiteracy rates among those groups perpetuated their plight.

46. When the problems of poverty and social isolation were compounded by racial discrimination, the distinct concerns of each ethnic minority or indigenous people required close analysis to determine the causes and effects of disparities.

47. He supported Mr. Bengoa's plans to take up where Mr. Despouy had left off, by examining the relationship between poverty and income distribution. Perhaps Mr. Bengoa's next step could be to study the significance of the statistics he had presented, focusing, for example, on the impact of income distribution on issues such as literacy or infant mortality.

48. While he agreed with Mr. Despouy that treaty bodies and other United Nations bodies could play important roles in the implementation of programmes against poverty, he believed the appropriate machinery for implementation should be entrusted to the United Nations High Commissioner for Human Rights.

49. Mr. Guissé had highlighted the very real implications of impunity for vulnerable groups such as women and minorities, who often faced the greatest human rights violations; it was therefore important for special rapporteurs to relate their analysis to those vulnerable groups. He supported Mr. Guissé's recommendation that an optional protocol to the International Covenant on Economic, Social and Cultural Rights should be drafted, adopted and ratified.

50. In conclusion, United Nations bodies and other institutions working in the area of economic, social and cultural rights needed to focus on those groups most affected by the effects of disparities, and to empower economically disadvantaged groups to better their circumstances.

51. Dr. EL BINDARI HAMMAD (World Health Organization (WHO)) said that Mr. Despouy's excellent report (E/CN.4/Sub.2/1996/13) had correctly identified the link between key health priorities and poverty. She wished to draw the attention of the Sub-Commission to the innovative concept of health security being developed by WHO. Health security encompassed every individual's right to affordable, adequate and life-long health care, as well as the right to sufficient food and decent living conditions, and access to health information and education. It was a restatement of the WHO Health for All initiative, with its goal of universal attainment by the year 2000 of a level of health permitting a socially and economically productive life. The difference between health and health security was that measurable targets could be set for health security, whereas health, in the sense of complete well-being, was an unreachable ideal. None the less, health was one of the best indicators for measuring how other rights were safeguarded, while without health rights, other rights were illusory. The right to health security should be seen as an overarching right that encompassed the basic human rights proclaimed in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

52. Many people already enjoyed full health security throughout their lives, while millions of others did not. High mortality rates, infectious diseases, drug abuse, violence, suicide, HIV/AIDS and mental and degenerative diseases were often closely associated with urgent social and economic problems, ranging from extreme poverty to high unemployment rates. Health security had to be seen as a societal issue, as the conditions which promoted it or caused ill-health were produced by society and the economy as a whole. In a climate of privatization of health services and reduced government involvement in them, NGOs were often relied on to fill the gaps in essential services, especially for the disadvantaged. Accountability for health and health security were at the heart of the health-development link; her organization would continue to advocate health security as a fundamental human right that subsumed many widely recognized social rights.

53. Ms. SORSA (International Monetary Fund (IMF)) said that the essential role of the IMF was to promote high-quality growth and thereby contribute to the promotion of high levels of employment and income. Growth had to be based on sound macroeconomic policies, structural policies that created a market-friendly environment, a development strategy suited to the country's resources and needs, a liberal trade and exchange regime, and sound social policies.

54. In his final report on human rights and extreme poverty (E/CN.4/Sub.2/1996/13), the Special Rapporteur, Mr. Despouy, appeared to suggest that sound macroeconomic policies were somehow incompatible with social justice; she believed that they were in fact an essential precondition for social justice. She also thought it was incorrect to say that the IMF was less sensitive than the World Bank to progress in social matters (para. 93). The document prepared by the IMF for the World Summit for Social Development in Copenhagen made it clear that the IMF recognized the increasing importance of social issues for sustainable economic and social development. A range of other papers produced by the IMF, on issues such as income distribution, poverty and social safety nets, showed that the IMF did take social concerns very seriously.

55. She said that the IMF was benefiting increasingly from close cooperation with the International Labour Organization, but rejected the assertion that IMF remedies were responsible for worsening the world employment situation, which would actually have been much worse if countries had not embarked on sound economic policies.

56. On the recurrent call for the international financial institutions to consider the possibility of organizing an expert seminar on their role in the realization of economic, social and cultural rights, she said that the IMF would be willing to participate in such a seminar, but that its specific mandate, together with resource constraints, meant that it was not the best agency to organize the seminar. However, the IMF would seek to maintain its level of participation in the various human rights bodies.

57. On the issue of external debt burdens, she was happy to report that considerable progress had been made in the identification of broad features of a coordinated strategy to deal with the debt problems of heavily indebted developing countries. The key element for the IMF was to assure the permanent financial base of the enhanced structural adjustment facility, which had proved to be an effective concessional financial instrument.

58. Mr. GARCÍA (Pax Romana), drew attention to the guidelines contained in the Secretary-General's report to the Commission on Human Rights (E/CN.4/1995/25); they indicated that any measures to relieve the debt burden of developing countries should respect individual and collective rights, particularly the right to development; they should recognize that the problem was not a purely technical one but was closely linked with the realization of economic, social and cultural rights, and should acknowledge the link between economic growth and development.

59. The solution to the problem of external debt required a broad international agreement, which could only be achieved by a political dialogue in which the debtor and creditor countries and the international financial institutions participated on an equal footing, either at an international conference or at the General Assembly. That dialogue should be based on the principles of shared responsibility and equality, and should respect the right to self-determination and non-interference. Further, the developed countries should undertake not to take any decisions which might affect the social and

economic development of the developing countries, thereby recognizing the right of each State to choose freely its own social, economic and political system.

60. The initiatives taken so far had been disappointing, although the Naples Terms adopted by the Paris Club in 1994 had been a positive step. His organization proposed the following measures to alleviate the debt burden of developing countries, based on the relevant Commission on Human Rights resolutions and the 1996 annual report of the United Nations Conference on Trade and Development (UNCTAD): the sale by the IMF of some of its gold reserves, without affecting funds for development aid; reduction of the debt accompanied by measures to improve the international economic climate; debt cancellation or reduction of the official debt or debt service; new financial resources for debtor developing countries; greater transparency in the activities of the international financial institutions; precedence for the basic rights of people in debtor countries over debt repayments; the establishment of a fair and equitable trading system, with regulated access to environmental technology, and the regulation of the activities of transnational companies.

61. In conclusion, he expressed his organization's full support for Mr. Guissé's report on the question of the impunity of perpetrators of human rights violations (E/CN.4/Sub.2/1996/15).

62. Mr. TEITELBAUM (American Association of Jurists) said that Mr. Bengoa should not restrict himself to merely observing and quantifying the phenomenon of the unfair distribution of income, but should study its causes and propose ways and means of reversing the current trend. That issue had been discussed at greater length in his organization's written statement to the Sub-Commission (E/CN.4/Sub.2/1996/NGO/10).

63. His organization was concerned at the statement made by the United Nations High Commissioner for Human Rights a few days earlier to the effect that the World Bank and human rights bodies had similar approaches to the question of the right to development; indeed, it felt that they were diametrically opposed.

64. It welcomed the Secretary-General's report on the impact of the activities and working methods of transnational corporations (E/CN.4/Sub.2/1996/12), and suggested that the Sub-Commission should propose that the Commission should consider setting up a working group to continue work on the subject.

65. Finally, it agreed with the general thrust of Mr. Guissé's report (E/CN.4/Sub.2/1996/15), but thought that the topic needed further elaboration, particularly with regard to its relevant legal aspects.

66. Ms. NEURY (Centre Europe-Tiers Monde) asked how the Sub-Commission could possibly give the question of the realization of economic, social and cultural rights the attention it deserved in the single day allocated to its consideration; by way of protest, she would not deliver her prepared statement on the question of transnational corporations and the loss of State

sovereignty. Her organization requested the Sub-Commission to adopt a resolution at the current session indicating how it proposed to deal with the item at its next session.

67. Mr. DILLOWAY (International Humanist and Ethical Union) said that human rights issues related to, for example, housing, income distribution, extreme poverty, transnational corporations and the environment were interrelated but were still being discussed in isolation. He suggested that they should be incorporated in a model constitution or national bill of rights that would contribute to the establishment and maintenance of workable democracies. An outline constitution based on human rights and duties could prove useful to many developing countries. Moreover, the prevalence of massive unemployment in European and other Western States despite the incorporation of a right to work in many international legal instruments seemed to indicate that their constitutions were out of touch with reality.

68. Ms. SHAUMIAN (International Institute for Peace) said that social, economic and cultural rights included the right to relevant and high-quality education for all. A new approach to education that took account of basic moral and spiritual values was essential. Irrational notions were gaining ground and contributing to racism and anti-Semitism, particularly in Europe. By claiming that particular groups were incompatible with their society on grounds of colour or religion, the new racists were claiming absolute validity for their own way of life and civilization. It was essential to put across the opposing view of incompatibility as a vital ingredient in the development of society and a key guarantee of its freedom.

69. Majorities frequently sought to manipulate minorities for their own political ends by preventing them from participating in elections and the political process in general or by conducting elections in a way that thwarted freedom of choice. The protection of minority rights in multinational States called for action to secure genuine equality of peoples and nations irrespective of their number, race, nationality or religion.

70. Ms. MASOOMA (Afro-Asian People's Solidarity Organization) said that poverty denied those affected any possibility of meaningful participation in the conduct of human affairs. Drastic changes in the priorities of Governments and international funding agencies were required to deal with the existing unjust economic order, which made life a daily struggle for the poor. Desperation bred violence and perpetuated such evils as child and bonded labour and prostitution.

71. Actions by individuals, commercial and industrial interests and States that destroyed the natural habitat were contributing to the impoverishment of communities. Whereas industrialized countries were taking action to prevent environmental degradation, developing countries were sacrificing their natural resources, often to serve the interests of the rich. Terrorism and State-sponsored mercenary activity were also impoverishing once prosperous societies.

72. To ensure that the benefits of development were not confined to the privileged, country-specific programmes devised by the international community

must provide for the dismantling of institutional, legal, social and constitutional structures that discriminated between citizens on the basis of religion, gender, political belief or race.

73. Poverty alleviation programmes must also be backed up by education programmes designed to inculcate a belief in peace and to promote awareness of the need to preserve natural resources.

74. Ms. ANKER (Four Directions Council) said that transnational corporations must be held accountable for their impact on human rights and the environment. They had been found to be implicated, inter alia, in overuse of agrochemicals, illicit movement and dumping of toxic and dangerous products, erosion, soil deterioration and water pollution. Her organization, in conjunction with students from Harvard Law School, had recently examined practical legal remedies for such environmental abuses. They had identified a number of major obstacles to legal redress: some countries had no environmental protection laws; countries with basic environmental legislation often failed to provide victims with direct access to the legal system, in some cases because of confusion over jurisdiction; and even countries with well-developed legislation often failed to enforce the laws against transnational corporations either because Governments were shareholders in the corporations or because they were fearful that enforcement of environmental standards would deprive them of desperately needed investment. Indigenous peoples, traditionally the most powerless and closely tied to the land, suffered disproportionately.

75. She urged the Sub-Commission to promote international instruments under which transnational corporations could be sued in their States of incorporation for environmental and human rights abuses. It should also consider the development of codes of conduct, including standards for worker health and safety and information disclosure.

76. Ms. PROUVEZ (International Commission of Jurists) said that her organization strongly supported efforts to adopt an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would allow individuals and groups to submit communications alleging non-compliance by States parties. As human rights were indivisible and interrelated, there was no reason why the monitoring procedures under that Covenant should be different from those under the International Covenant on Civil and Political Rights. The idea of such a protocol had found support in the Vienna Declaration and Programme and Action and a number of resolutions adopted by the Commission on Human Rights. Case law in many countries had shown that economic, social and cultural rights were justiciable. Fears of abuse of an individual complaint mechanism could be countered by the argument that such rights had been formulated as obligations of conduct rather than as obligations of result so that violations would be found to have occurred only in extreme cases. Moreover, an individual complaint procedure would be conducive to more precise definition of the meaning and scope of economic, social and cultural rights.

77. Welcoming the second interim report on the question of the impunity of perpetrators of human rights violations (E/CN.4/Sub.2/1996/15), she listed a number of points that merited further examination. It was important to

identify elements that could be used to determine which violations of economic, social or cultural rights could be classified as wrongful acts in international criminal law. With reference to paragraph 142 (d) of the report, the duty of States to take measures to prevent and sanction violations of such rights should be precisely defined. The conditions of liability of both States and natural or legal persons must be clearly determined and the judicial processes used to uphold economic, social and cultural rights required further examination. Her organization would provide all possible assistance to the Special Rapporteur in the continuation of his study.

78. She suggested that the question of impunity of perpetrators of violations of economic, social and cultural rights should in future be dealt with under agenda item 10 (a) together with the corresponding question relating to civil and political rights.

IMPLICATIONS OF HUMANITARIAN ACTIVITIES FOR THE ENJOYMENT OF HUMAN RIGHTS (agenda item 19) (continued)

Draft decision on the humanitarian situation in Chechnya

79. Mrs. WARZAZI said that, in her view, the Sub-Commission was duty bound, on strictly humanitarian grounds, to take a stand on the ultimatum issued to civilians in Chechnya by a General of the armed forces of the Russian Federation which prepared the stage for a military exercise that would certainly take a heavy toll of human life. She was submitting the following draft decision on the humanitarian situation in Chechnya under agenda item 19:

> "1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities considers with concern the grave situation of human rights in the Republic of Chechnya of the Russian Federation. It recalls the statement by the Chairman of the Commission on Human Rights at its fifty-first and fifty-second sessions expressing its deep preoccupation with the continued fighting, despite various cease-fires, the high number of victims and the suffering inflicted on the civilian population (E/1995/23-E/CN.4/1995, 1756, para. 594 and E/1996/23-E/CN.4/1996/SR.61).
>
> 2. The Sub-Commission further recalls the Nazran Ceasefire Agreement of 10 June 1996 and regrets that it has repeatedly been violated.
>
> 3. The Sub-Commission is alarmed at the announcement of an ultimatum by the Commander of the Russian forces that massive strikes, using aircraft as well as ground forces, will be employed against Grozny, the capital of Chechnya.
>
> 4. Bearing in mind that about an estimated 40,000 persons, mostly civilians, have been killed in the fighting, the Sub-Commission urges the parties concerned fully to respect the principles of international law, and international humanitarian law in particular.
>
> 5. The Sub-Commission calls urgently for an immediate and lasting cessation of hostilities, other acts of violence and violations of human rights."

80. Mr. ALFONSO MARTÍNEZ said that the draft decision was clearly inadmissible since agenda item 19 had not been included in the order of the day. Moreover, such a sensitive issue, which had enormous implications under both domestic and international law, could not be taken up and decided at a moment's notice. The Sub-Commission was not a "security council" on human rights and had no mandate to take emergency measures. If it wished to contribute effectively to the prevention of further bloodshed and possible human rights violations in Chechnya, it should take time to explore the matter in greater depth.

81. Mrs. GWANMESIA, supported by Mr. JOINET, said that a legalistic approach was inappropriate at a time when swift action might help to save innocent lives. The Sub-Commission would be failing in its mandate if it ignored a situation of such relevance to human rights.

82. Mr. CHERNICHENKO said that although he understood the emotions that had inspired the draft decision, he wondered why the seizure of Grozny by the separatists with great loss of life had not aroused similar emotions. Even if adopted, such a decision could not possibly have any impact on the ultimatum since it would not reach the military commander in time.

83. Decisions or resolutions on the human rights situation in individual countries, to which he was opposed as a matter of principle, fell under agenda item 6 which had already been closed.

84. The Commission on Human Rights which, unlike the Sub-Commission, had the requisite political mandate to deal with such matters, was addressing the tragic situation in Chechnya and the High Commissioner for Human Rights had established contact in that connection with the Government of the Russian Federation.

85. Mrs. PALLEY, speaking on a point of order, said she understood that the Sub-Commission, as a sovereign body, had discretionary power to take a decision at any time on a matter of urgency.

86. Mr. JOINET agreed with Mrs. Palley and drew attention to rule 8 of the rules of procedure which allowed the Sub-Commission to revise the agenda "by adding, deleting, deferring or amending items" and specified that "only important and urgent items shall be added to the agenda during the session."

87. Mr. CHERNICHENKO said that there was no justification for taking hasty decisions and, invoking rule 48 of the rules of procedure, moved the adjournment of the meeting.

88. The motion was rejected by 9 votes to 4, with 5 abstentions.

89. At the request of Mr. Alfonso Martínez, a vote was taken by roll-call on the draft decision.

In favour: Mr. Ali Khan, Mr. Bengoa, Mr. Bossuyt, Mrs. Daes, Mr. El-Hajjé, Mrs. Gwanmesia, Mr. Yokota, Mr. Joinet, Mr. Khalifa, Mr. Fix Zamudio, Mr. Lindgren Alves, Mr. Maxim, Mrs. Palley, Mr. Park, Mrs. Warzazi, Mr. Weissbrodt, Mr. Yimer.

Against: Mr. Chernichenko, Mr. Fan Guoxiang.

Abstaining: Mrs. Mbonu, Mr. Shamshur, Mr. Guissé, Mr. Mehedi.

90. The draft decision was adopted by 17 votes to 2, with 4 abstentions.

The meeting rose at 6.35 p.m.